

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

August 21, 2014



Conditional Use Permit case no. CU 14-05: U&C Family Investments

CASE DESCRIPTION: request for approval of a Conditional Use Permit to allow a neighborhood grocery store on property in a Residential District – 5000 (RD-5) zoning district.

LOCATION: 0.346 acres of land adjoining the northeast side of Palasota Drive between McArthur Avenue and Bridge Meadow Lane

LEGAL DESCRIPTION: Lot 6R-2 in W.J. Coulter Subdivision of the Morille Tract

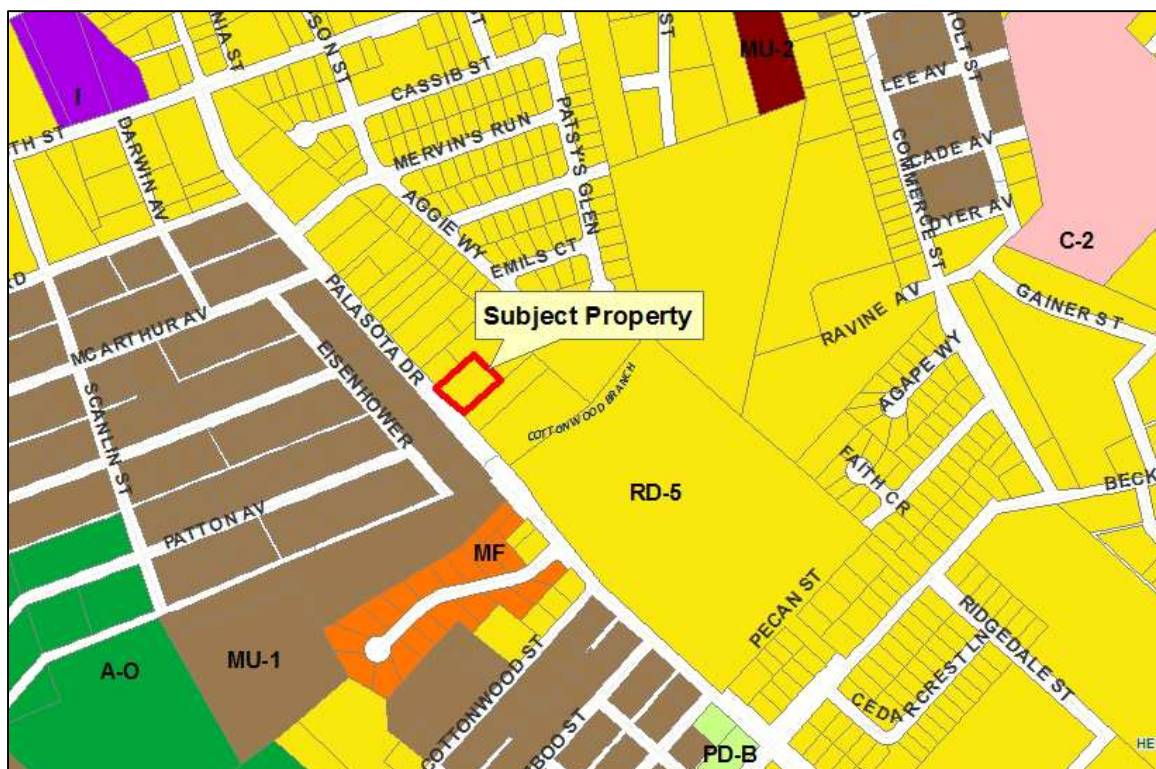
EXISTING LAND USE: formerly commercial, now vacant

ZONING: Residential District – 5000 (RD-5)

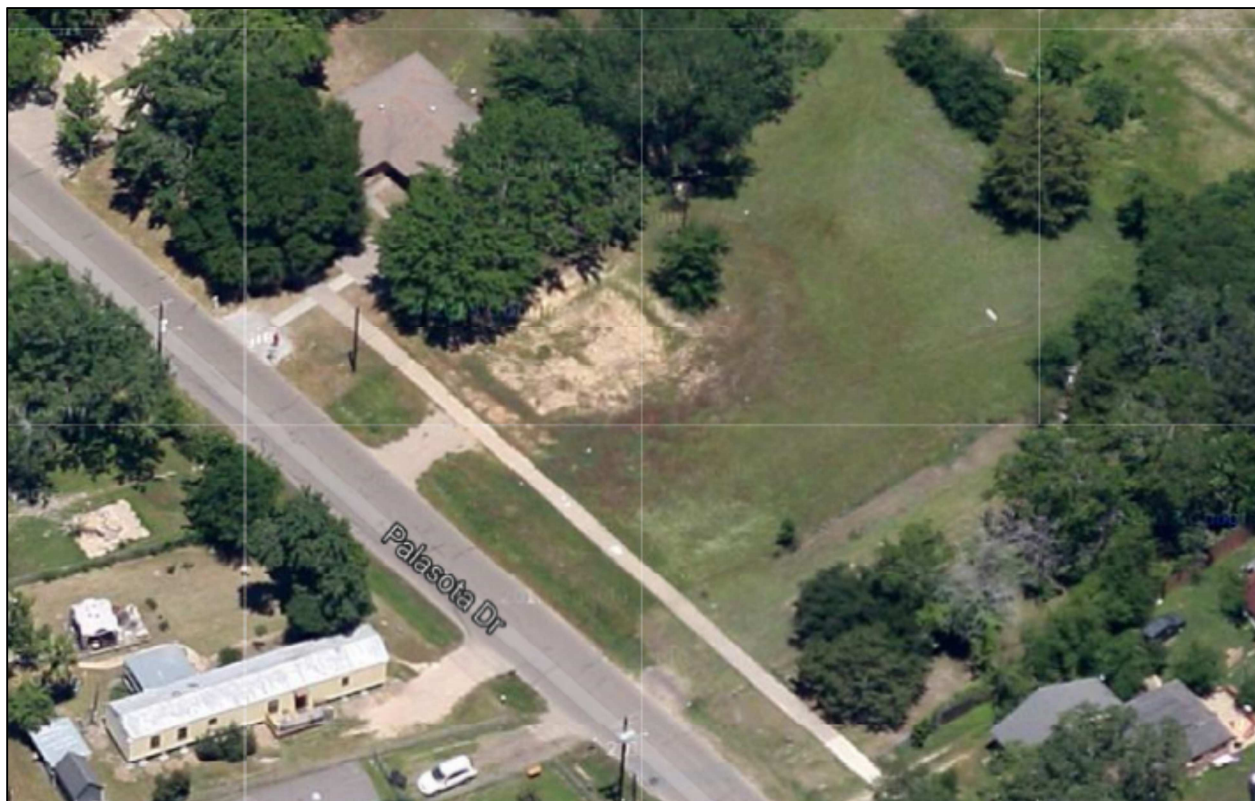
APPLICANT(S): Asif Umatiya

STAFF CONTACT: Randy Haynes, Senior Planner

SUMMARY RECOMMENDATION: Staff recommends **approving** this request,



2013 AERIALS:



BACKGROUND:

The applicant, Mr. Asif Umatiya, is requesting approval of a conditional use permit to allow the operation of a neighborhood service business (grocery) on the subject property.

The subject tract is 0.346 acres of land adjoining the northeast side of the Palasota Drive, between McArthur Avenue and Bridge Meadow Lane. Residential land use surrounds the property for a distance of at least ¼ mile. The zoning of the surrounding properties is a mixture of Residential District – 5000, Mixed Use Residential District, (MU-1) and Multiple Family Residential District (MF). The homes in the neighborhood directly across Palasota Drive are on lots with frontage on both Palasota Drive and Eisenhower Street, their primary access being Eisenhower Street. The property immediately southeast of the subject tract lies within the floodplain and floodway of Cottonwood Branch; making future development unlikely. Beyond Cottonwood Branch is the 20-acre Anson Jones Elementary School campus.

When the applicant purchased the property in 2010, the parent tract was 1.918 acres in size and contained one residence and one 1500 square foot commercial building. The property was then subdivided, leaving the residence on its own lot and two other lots for future development. The commercial structure, being in poor condition, was removed. Mr. Umatiya has submitted a site plan and several attachments with his request to illustrate his plan to construct a neighborhood grocery on the smaller of the two remaining lots.

Residential Districts are intended to be composed of dwelling units designed primarily for residential use and do not easily lend themselves to other types of nonresidential uses. However, the Zoning Ordinance allows some flexibility in that through the conditional use permit process, a limited number of other uses may be permitted which are compatible to residential uses and occupy structures designed for their intended use and do not infringe upon the residential uses.

The purpose of the conditional use permit process is to identify those uses which might be appropriate within a zoning district but, due to either their location, function, or operation, could have a potentially harmful impact on adjacent properties or the surrounding area; and to provide for a procedure whereby such uses might be permitted by further restricting or conditioning them so as to mitigate or eliminate such adverse impacts. One of the uses potentially allowed within the RD-5 zoning district with prior approval of a conditional use permit is a group of uses called “neighborhood services”. Under the definition, neighborhood services are limited to the following five specific uses:

- Grocery store;
- Laundry
- Dry-cleaning drop-off
- Beauty shop or barbershop; or
- Automated teller machine.

In addition, a neighborhood services establishment must comply with the following additional standards:

- Be limited in gross floor area to 5,000 square feet (business only);
- Not include fuel sales or other fuel dispensing or storage operations;
- Have no liquor sales; and
- Be permitted beer and wine sales for off-premises consumption only.

The applicant’s proposal complies with all of the additional standards set out by the ordinance for a Neighborhood services establishment in a residential district.

RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan adopted a new Comprehensive Plan in January 2007. The plan includes policy recommendations related to the various physical development aspects of the community. The Comprehensive Plan states that it is a goal of the City to achieve a balance of land uses within the City by achieving a sustainable mix of land use types in suitable locations, densities and patterns.

5.5 Land Use Policies

Owing to the fact that Bryan developed without zoning for most of its history, clear development patterns are not always distinguishable. Older neighborhoods are sprinkled with small commercial areas containing scaleable storefronts, offices and service uses such as barber shops. This pattern, although prohibited by most modern Euclidian zoning codes is not view as altogether undesirable by Bryan's residents. Many feel that the character of older subdivisions and historic areas, such as the Downtown, are formed, in part, by this mix of uses.

Use-Specific Land Use Policies

The land uses listed below should meet all of the specific policies below in addition to the Citywide Policies listed above.

Low Density Residential land serves to provide housing and living units for a variety of people with a range of incomes and needs. It predominantly consists of detached single family dwellings but may consist of other housing types as long as densities remain low; up to 8 dwelling units per acre. These uses should be located in areas that are:

Protected from but accessible to the major roadway network, commercial establishments, work places and entertainment areas;

- Accessible to collector and arterial streets, but directly access only local streets; and

Office / Light Commercial land provides locations for lower intensity commercial activities that serve local needs. It also serves as a location for professional offices and low-impact service uses. These uses should be located in areas that are:

- At points of high visibility along non-residential arterials and major collectors and at intersections of minor arterials and major or minor arterials, major collectors and major or minor arterials, and minor collectors and major arterials;

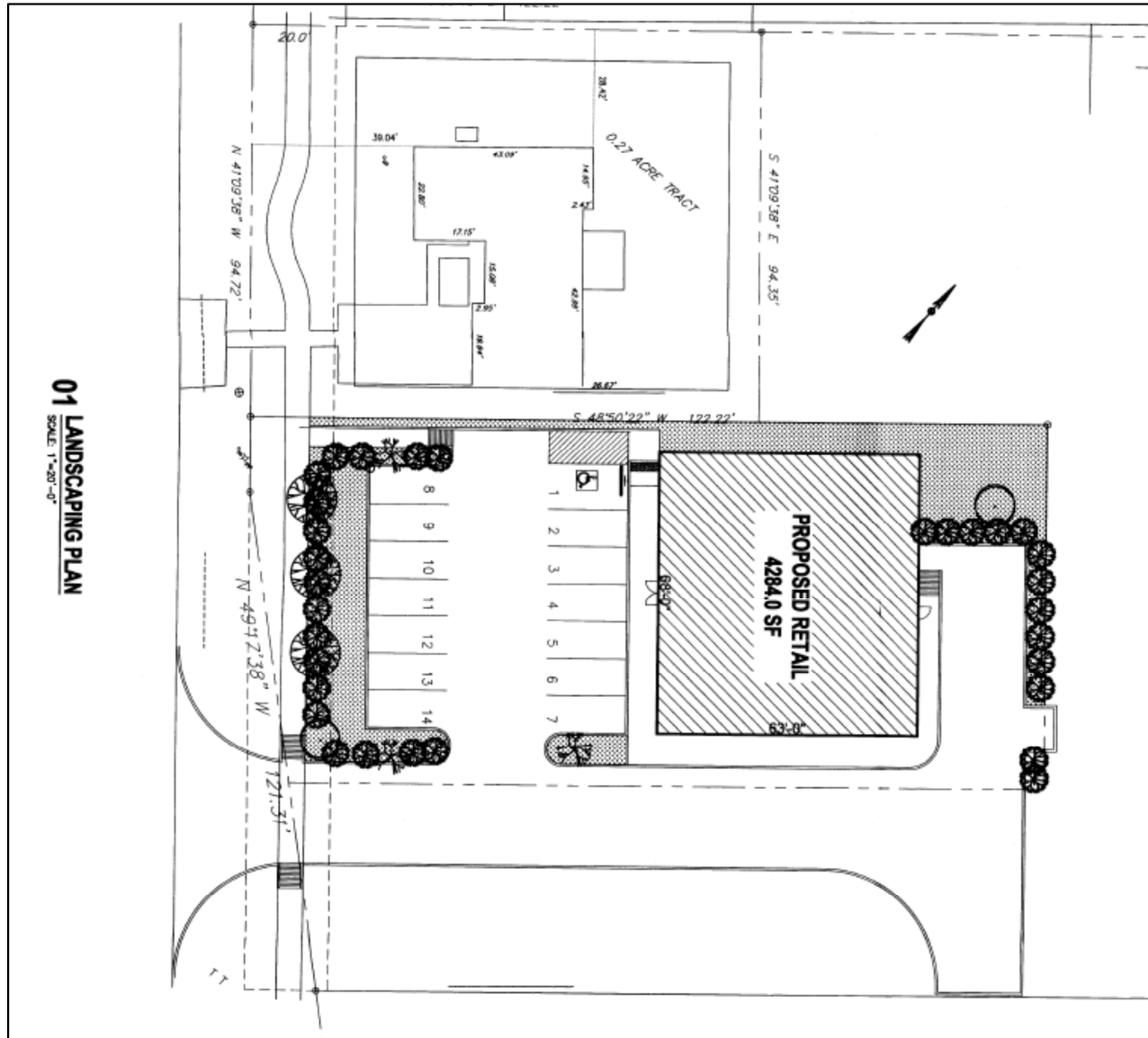
- Convenient and accessible to residential areas;

Included in the policy statements adopted within the Comprehensive Plan were several that directly addressed the subject of infill and redevelopment. These statements are located in section 5.5.

- The City of Bryan will encourage and promote compatible infill and redevelopment in areas where these activities will benefit the city as a whole and the area specifically.
- The City will encourage flexibility when drafting regulations geared toward infill and redevelopment.
- Residential redevelopment and infill shall be sensitive to the context within which it occurs. Contextual standards shall be included to ensure compatibility with surrounding residential areas, to include lot size, setbacks, density, building height and mass and architectural design

The site plan illustrates the proposed development for J&C Family Investments, Inc. (Rem. 0.34 Acre Tract, Volume 9619, Page 223). The central feature is a **PROPOSED 1-STORY BUILDING** measuring 4,295 SF. To the west of the building is a **PROPOSED 6" SANITARY SEWER** line, and to the south is a **PROPOSED DOMESTIC WATER** line. The plan also shows a **PROPOSED 18" CULVERT** near the southwest corner. The property is bounded by **PALASOTA DRIVE** to the west and **PRIVATE DRIVEWAY** to the south. Key setbacks include a **7.5' SIDE SETBACK LINE** on all four sides of the building, a **30' FRONT SETBACK LINE**, and a **7.5' REAR SETBACK LINE**. A **25' CROSS ACCESS EASEMENT** is shown on the south side. The plan includes various dimensions for setbacks, easements, and building footprints, as well as bearings and distances for the property boundaries. The **LIMITS OF DETAILED STUDY (F.I.R.M. MAP) 320' BFE** are indicated by a dashed line.

LANDSCAPE PLAN DETAIL:



ATTACHED CITIZEN COMMUNICATION:

The City Secretary and the Development Services Department offices have each received written communications of disapproval and concern from both other area businesses and individual citizens concerning the possibility of another retail business being allowed to open in their vicinity. Copies of those documents are attached to this staff report.

The Zoning Ordinance provides no formal procedure to protest the issuance of a conditional use permit prior to its approval by the Planning and Zoning Commission. The process specified by the ordinance involves an appeal to the City Council, which must be made in writing within ten days of the commission's decision.

Due to the fact that the ordinance specifies no formal process at this stage, the contents and signatures of attached petition documents have not been tabulated or addresses verified. Staff recommends that the commission accept them and assign the weight of general public opinion to their sentiment.

ANALYSIS:

Approval of a Conditional Use Permit by the Planning and Zoning Commission shall be based upon the following criteria.

1. Whether the proposed conditional use conforms to applicable regulations and standards established by the Zoning Ordinance.

If approved as proposed, the proposed neighborhood grocery at this location will conform to all applicable regulations and standards established by the Zoning Ordinance.

2. Whether the proposed conditional use is compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features.

As per the attached site plan, the applicants propose a small scale commercial building set back 115 feet from Palasota Drive. Staff contends that the generous additional building setback together with the installation of required landscaping will serve to relieve obvious differences in building mass and type.

3. Whether and the extent to which the proposed conditional use potentially creates greater unfavorable effect or impacts on other existing or permitted uses on abutting sites than those which reasonably may result from the use of the site by a permitted use.

Staff finds that a neighborhood grocery store such as the one proposed for the subject property is a higher intensity land use than would be normally expected in a residential zoning district. Staff contends however that although the immediate area is zoned for residential use, Palasota Drive is not a residential street, and the pattern of development in the area has created conditions that make the more intense use more suitable in the proposed location than would normally be accepted in a residential zoning district.

4. Whether and the extent to which the proposed conditional use affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area.

Palasota Drive is identified on the thoroughfare plan as a minor arterial roadway and already carries traffic loads far in excess of those expected on a residential street. Staff contends that the addition of the proposed neighborhood grocery will not significantly increase the volume of traffic using the roadway. The plan exceeds the required 50-foot throat depth along the access driveway, providing 65 feet of driveway space to enhance safety for motorists entering or leaving Palasota drive.

5. Whether and the extent to which the proposed conditional use would reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts.

No additional impact concerning erosion, flood or water damage, fire and other hazards are expected with the proposed use of this subject property as a neighborhood grocery. Staff contends that the extent to which adjacent properties would be impacted by added noise or light will be mitigated by proposed screening and landscaping.

6. Whether and the extent to which the proposed conditional use adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs.

The proposed site plan that will govern the requested conditional use permit depicts no curbside or monument signage. A fascia sign will be mounted on the front of the building. Any such additions to the site will conform to existing standards for lighting and signage outlined in the City of Bryan Code of Ordinances.

7. Whether and the extent to which the proposed conditional use provides adequate and convenient off-street parking and loading facilities.

One beneficial feature of the small scale facility as proposed is the reduced impact of large paved open spaces that provide parking in excess of the minimum required. Staff believes that the off-street parking and loading facilities that are illustrated on the site plan are adequate for the proposed use.

8. Whether the proposed conditional use conforms to the objectives and the purpose of the zoning district in which the development is proposed.

Large un-broken areas of residential zoning, such as is the case in the immediate vicinity of the subject property, bisected by collector and arterial roadways; has the resulting effect of reinforcing the auto-oriented nature of the community. Staff contends that this is a negative consequence that could be in part mitigated by the presence of small retail service establishments located along heavily traveled routes within the neighborhood. The comprehensive plan and the zoning ordinance have both provided for the possibility of such development. Staff believes that in this particular location, along a minor arterial and adjacent to a neighborhood hub such as Anson Jones School, the proposed use of a neighborhood grocery conforms to the objectives of both the Comprehensive Plan and the Zoning Ordinance.

9. Whether the proposed conditional use will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

The proposed business will be properly screened from the surrounding residential uses, thus mitigating harmful impact.

10. Whether the premises or structures are suitable for the proposed conditional use.

The proposed facility will be a ground-up development designed specifically for the intended use.

RECOMMENDATION:

Staff recommends **approving as requested** a Conditional Use Permit to allow a neighborhood grocery at this location.